



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

REPLY TO
ATTENTION OF

May 29, 2001

Construction-Operations
Regulatory (01-04209-DJS)

Mr. Ken Powell
Kjolhaug Environmental Services, Inc.
26105 Wild Rose Lane
Excelsior, Minnesota 55331

Dear Mr. Powell:

We have reviewed information about a project of Moen-Leuer Construction to discharge 7,003 square feet of fill material for the Hilltop Business Park in an unnamed wetland. The project site is in SW 1/4 Sec. 5, T. 29N., R. 21W., Washington County, Minnesota.

This jurisdictional determination takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The area encompassed by this jurisdictional determination is a waterbody/wetland that is approximately 1 acre in size.

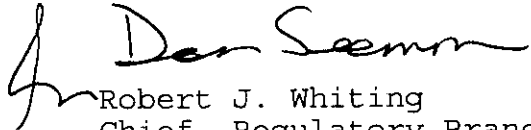
The subject water body is not a "water of the United States" because it is: (1) not a navigable water, (2) not an interstate water, (3) not part of a tributary system to 1 or 2, (4) not a wetland adjacent to any of the foregoing, and not an impoundment of any of the above. In addition, the interstate commerce nexus to this particular waterbody is insufficient to establish Clean Water Act jurisdiction. This waterbody is therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act.

This jurisdictional determination is valid only for the project and waterbody referenced above. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY).

If you have any questions, contact Dan J. Seemon in our St. Paul office at (651) 290-5380. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

A handwritten signature in black ink that reads "Dan Seemon". The signature is written in a cursive style with a large, stylized "D" and "S".

Robert J. Whiting
Chief, Regulatory Branch